

Message Text

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PAGE 01 BUENOS 05529 200224Z
ACTION SNM-05

INFO OCT-01 ARA-14 ISO-00 L-03 CA-01 PPTE-00 SCS-06
/030 W

-----106487 201740Z /43

R 191501Z JUL 78
FM AMEMBASSY BUENOS AIRES
TO SECSTATE WASHDC 6558
INFO DEA HQTS WASHDC

UNCLAS BUENOS AIRES 5529

HQTS/ENA

E.O. 11652 N/A
TAGS SNAR, AR
SUBJECT NARCOTICS LAWS

REF: STATE 170187

1. FOR DEA: SECSTATE IN THE PROCESS OF COMPILING COMPREHENSIVE WORLD-WIDE REPORT ON NARCOTICS LAWS. IN THE ABSENCE OF THE NARCOTICS COORDINATOR, BADO IS PROVIDING RESPONSE FOR ARGENTINA.

2. PER REFTEL REQUEST, FOLLOWING INFO OBTAINED FROM CONATON, ARGENTINA'S PRESIDENTIAL ADVISORY COMMITTEE ON DRUG ABUSE AND POLICY MAKING.

3. ALL NARCOTICS VIOLATIONS IN ARGENTINA FALL UNDER LAW NO 20771 WHICH IS A COMPREHENSIVE LAW COVERING ALL ILLICIT ACTIVITY RELATED TO DRUGS. UNDER THIS LAW THE VARIOUS NARCOTICS (US EQUIVALENT OF CONTROLLED SUBSTANCES) ARE CONSOLIDATED AND PENALTIES FOR VIOLATIONS OF SAME ARE ESTABLISHED.

4. I. POSSESSION: THERE IS NO SPECIFIC AMOUNT TO
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DIFFERENTIATE BETWEEN POSSESSION AND TRAFFICKING. FOR EXAMPLE: A SUBJECT ARRESTED WITH 3 KGS OF COCAINE WOULD BE CHARGED WITH SIMPLE POSSESSION UNLESS INTENT TO DISTRIBUTE CAN BE PROVEN. HOWEVER, THIS DEFENDANT WOULD PROBABLY RECEIVE A HIGHER SENTENCE. PENALTIES FOR POSSESSION RANGE FROM 1-6 YEARS.

II. TRAFFICKING:

A. SEE PARAGRAPH THREE ABOVE.

B. LAW PROVIDES FOR A MINIMUM OF THREE YEARS
AND A MAXIMUM OF 12 YEARS FOR TRAFFICKING CONVICTION.
PROVISIONAL LIBERTY PERMITTED ONLY FOR DEFENDANTS
CHARGED WITH POSSESSION.

C. AMOUNT IN POSSESSION DOES NOT DETER-
MINE TRAFFICKING. INTENT TO DISTRIBUTE EVEN THE
SLIGHTEST AMOUNT DOES.

D. LAW DOES PROVIDE FOR OFFENSE RELATING TO
CONSPIRACY (ILLCIT ASSOCIATION); HOWEVER, DRUGS MUST BE
SEIZED.

III. CULTIVATION: ARGENTINA'S LAW ASCRIBES TO
PROVISIONS OF THE SINGLE CONVENTION ON THIS REQUIREMENT.
CONVICTIONS FOR VIOLATIONS IN THIS AREA RANGE FROM
3-12 YEARS (ARTICLE 2 LAW 20771).

IV. FINANCIAL: ARTICLE 3 SAME LAW PROVIDES FOR A
SENTENCE OF 5-15 YEARS AND FINE OF 5,000 PESOS
(US\$6.00) TO 1,000,000 PESOS (US\$1,258.00) FOR THOSE
SUBJECTS CONVICTED OF "ORGANIZING OR FINANCING ANY OF
THE ILLICIT ACTIVITIES MENTIONED IN ARTICLE 2 (CULTIVA-
TION, PRODUCTION, COMMERCIALIZATION, DISTRIBUTION,
IMPORTATION OR EXPORTATION OF DRUGS.)

V. CRIMINAL PROCEDURES: UNDER CURRENT PRACTICES
A SUBJECT CAN BE DETAINED FOR QUESTIONING INCOMUNICADO
FOR UP TO 48 HOURS. CONSULAR ACCESS IS NOT PERMITTED
AND IN ACTUAL PRACTICE EMBASSY WOULD NOT BE NOTIFIED
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UNTIL AFTER 48 HR PERIOD.

ARGENTINE JUDICIAL PROCESS IS DIVIDED INTO TWO
PHASES. THE INITIAL PHASE STARTS IMMEDIATELY UPON
ARREST AND SEIZURE OF DRUGS. THE INVESTIGATION IS
ASSIGNED TO A JUDGE OF INSTRUCTION WHO IS RESPONSIBLE
FOR PREPARATION OF A "SUMARIO" CONSISTING OF PRESEN-
TATION OF EVIDENCE, POLICE REPORTS, DECLARATIONS, ETC.
SECOND PHASE INVOLVES DETERMINATION OF GUILT AND
SENTENCING. THERE IS A WIDE VARIANCE IN THE LENGTH
OF TIME REQUIRED TO COMPLETE THIS PHASE. CONATON
OFFICIAL STATES TWO YEAR PERIOD AVERAGE.
LEGAL COUNSEL IS AVAILABLE AT NO COST TO DEFENDANTS.
ADEQUATE LAWYERS ARE AVAILABLE BUT AVERAGE FEES ARE
IMPOSSIBLE TO DETERMINE. MINOR OFFENDERS IN POSSESSION
OF SMALL AMOUNTS ARE NOT UNDER CURRENT PRACTICE EXPLLED
AND ARE USUALLY PROSECUTED.

SAIC BOLDIN
CASTRO

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: NARCOTICS, LAW, DRUG TRAFFIC, DRUG SEIZURES
Control Number: n/a
Copy: SINGLE
Draft Date: 19 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978BUENOS05529
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780298-0715
Format: TEL
From: BUENOS AIRES
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780744/aaaabkzc.tel
Line Count: 112
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 8ed3b370-c288-dd11-92da-001cc4696bcc
Office: ACTION SNM
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 78 STATE 170187
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 20 apr 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1960702
Secure: OPEN
Status: NATIVE
Subject: NARCOTICS LAWS
TAGS: SNAR, AR
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/8ed3b370-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014